

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 F.D.C. VILLASENOR, a minor, by and
11 through his parent and guardian, MARTHA
VILLASENOR,

12 Plaintiff,

13 v.

14 SEATTLE PUBLIC SCHOOLS, *et al.*,

15 Defendants.

CASE NO. 2:19-cv-01232-RSL-JRC

ORDER TO SHOW CAUSE
REGARDING MINOR
SETTLEMENT

16 This matter is before the undersigned on referral from the District Court. *See* Dkt. 8. For
17 the reasons discussed below, the Court notes the parties' stipulated motion for dismissal (Dkt.
18 17) for consideration on February 28, 2020 and directs additional briefing as outlined herein.

19 **DISCUSSION**

20 When claims involving a minor settle, the Court has "a special duty, derived from Federal
21 Rule of Civil Procedure 17(c), to safeguard the interests of litigants who are minors." This duty
22 includes conducting "its own inquiry to determine whether the settlement serves the best
23 interests of the minor." *Robidoux v. Rosengren*, 638 F.3d 1177, 1181 (9th Cir. 2011) (quoting
24 *Dacanay v. Mendoza*, 573 F.2d 1075, 1080 (9th Cir. 1978)); *see also Salmeron v. United States*,

1 724 F.2d 1357, 1363 (9th Cir. 1983) (“a court must independently investigate and evaluate any
2 compromise or settlement of a minor’s claims to assure itself that the minor’s interests are
3 protected, even if the settlement has been recommended or negotiated by the minor’s parent or
4 guardian ad litem”). When considering whether to approve a proposed settlement of federal
5 claims involving minors, the Court must consider whether the settlement is fair and reasonable in
6 light of the facts and specific claims at issue and recoveries in similar cases, but without regard
7 to the fee that the adult plaintiffs agreed to pay plaintiff’s counsel. *See Robidoux*, 638 F.3d at
8 1181–82. If a court is not satisfied that minors’ interests are being protected, it may reject a
9 proposed settlement. *See id.* at 1179.

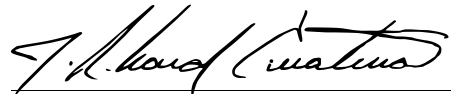
10 In this matter, the parties have not sought Court approval of the settlement, instead filing
11 a stipulated notice of dismissal pursuant to Federal Rule of Civil Procedure 41(a). However, the
12 Court must intervene under these circumstances to ensure that the minor’s interests are protected.

13 The Court’s ability to inquire into whether the minor’s interests have been protected is
14 hampered by the parties’ failure to request Court approval. Moreover, although this Court’s
15 Local Civil Rule 17 requires that a guardian ad litem be appointed by the Court to investigate the
16 adequacy of an offered settlement of a minor’s claims, no party has requested the appointment of
17 a guardian ad litem. Nor has any party explained whether an exception to appointing a guardian
18 ad litem exists. *See* Local Civil Rule 17(c) (allowing the Court to dispense with appointing a
19 guardian ad litem if a general guardian has previously been appointed or if the court finds that
20 independent counsel represents the minor). In at least one other case in this District, failure to
21 comply with Local Civil Rule 17(c) has resulted in denial of a request to approve a minor
22 settlement. *See* Order Denying Approval of Settlement, Dkt. 28, *D.M. et al. v. USAA Casualty*
23 *Ins. Co.*, No. 2:15-cv-00128 BAT (Dec. 21, 2015).

1 In sum, here the parties have neither requested Court approval of their settlement nor
2 satisfied the requirements of Local Rule 17(c). A stipulated notice of dismissal is not permitted
3 to circumvent this Court's duty to inquire into the settlement of a minor's claims. *See, e.g.,*
4 *Green v. Nevers*, 111 F.3d 1295, 1301 (6th Cir. 1997) ("While a properly stipulated dismissal
5 under Rule 41(a)(1)(ii) is self-executing and does not require judicial approval . . . a court may
6 decline to permit a voluntary dismissal when required to avoid short-circuiting the judicial
7 process, or to safeguard interests of persons entitled to the court's special protection.").

8 Therefore, at present, the Court declines to recommend that the stipulated dismissal be
9 adopted. Instead, the stipulated dismissal (Dkt. 17) shall be noted for consideration on **February**
10 **28, 2020**. On or before that date, the parties shall show cause regarding whether the Court
11 should approve the settlement, including providing information that they believe is relevant, such
12 as whether a state court has passed upon the propriety of the settlement. The parties may satisfy
13 this show-cause order by filing a stipulated motion for approval of a minor settlement or other
14 appropriate filing that addresses the issues outlined herein.

15 Dated this 3rd day of February, 2020.

16 

17 J. Richard Creatura
18 United States Magistrate Judge
19
20
21
22
23
24